IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION LD.NO.2135 OF 2004

Shri Sandeep Tukaram Gawade. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
....
Mr. M. J. Jamdar for the Petitioner.
Mr. Milind More, A. G. P. for Respondent No.1.
Mr.S. G. Surana for Respondent Nos.2 to 4.
Ms. A.K. Savla for Respondent No.5.
Mr. R. C. Shah i/b. J. C. Patel for Respondent No.6.
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CORAM : DALVEER BHANDARI,C.J. &
DR.D.Y.CHANDRACHUD, J.

August 3, 2004.

P.C.:

The Petitioner claims to be an occupant of premises admeasuring 8' x 6', situated at Barde Chawl, Sahar Road, Sambhaji Nagar, Andheri (East), Mumbai-400 069. According to the Petitioner, the earlier occupant relinquished his right, title and interest in the premises in favour of the Petitioner on 24th August 1993. In support of his occupation of the premises in question, the Petitioner has relied upon his Ration Card, Electoral Identity Card

and a notice issued by the Additional Tahsildar, Andheri. The area where the premises of the Petitioner is situated are being developed under a Slum Rehabilitation Project. The Sixth Respondent has been appointed as a developer. The grievance of the Petitioner is that his name has not been considered for inclusion in the list of occupants who are eligible for participation in the Slum Rehabilitation Scheme and for the allotment of alternative premises.

2. Learned Counsel appearing on behalf of the Slum Rehabilitation Authority, the Second Respondent, has stated that in the first instance, it would be necessary for the Fifth Respondent to determine the eligibility of the Petitioner and in the event that the Petitioner is aggrieved by that determination, he would have a remedy of an appeal before the Second Respondent.

3. In the circumstances, we direct that the Fifth Respondent or, as the case may be, the designated authority in the Municipal Corporation competent to decide upon the eligibility of the

Petitioner, shall after furnishing the Petitioner an opportunity of being heard, determine whether the Petitioner meets the requirements of eligibility. The Fifth Respondent or, as the case may be, the authority concerned, shall do so within a period of two months from today. In the meantime, on behalf of the Sixth Respondent it has been stated that in the event that it becomes necessary to dishouse the Petitioner from the existing premises in order to ensure the implementation of the Slum Rehabilitation Project, the Petitioner would be offered suitable transit accommodation on the same terms as applicable to other similarly situated occupants, subject to the undertaking of the Petitioner to vacate the transit accommodation, in the event that he is found not be eligible to participate in the Slum Rehabilitation Scheme. In the circumstances, there shall also be a direction to the effect that in the event that the possession of the premises in the occupation of the Petitioner is sought to be taken over by the Sixth Respondent, in order to implement the Slum Rehabilitation Project, the Sixth Respondent shall offer to the Petitioner transit accommodation on the same terms and conditions that are applicable to other

occupants of the Scheme. The Petitioner shall, however, undertake to vacate the transit accommodation, in the event of his being held to be ineligible for participation in the Slum Rehabilitation Scheme within a period of four weeks of such determination, subject to his right to avail such remedies which are available to him in law. The Petition shall stand disposed of in the aforesaid terms. There shall be no order as to costs.

4. The parties to act on an ordinary copy of this order duly authenticated by the Personal Secretary/Associate of this Court.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.